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Revolutions in Local Democracy? Neighborhood Councils and Broadening Inclusion in the Local Political Process

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REVOLUTIONS IN LOCAL DEMOCRACY? NEIGHBORHOOD COUNCILS AND BROADENING INCLUSION IN THE LOCAL POLITICAL PROCESS

Matthew J. Parlow*

Political marginalization of minorities and government corruption are two key factors that have led to the overwhelming decline and decay of America's major cities. Local governments must combat the historical entrenchment of these two evils in order to reverse the trend toward demise. Neighborhood councils may be the best structural changes to local government because they provide more meaningful opportunities for political engagement of minority groups, while also serving as an antidote to systemic corruption in local government. This Essay analyzes the problems plaguing local government in urban cities and explores how neighborhood councils may be able to help address them.

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INTRODUCTION

It is no secret that many of America's major cities are broken and face overwhelming, perhaps even insurmountable, challenges. The root causes of the problems afflicting these cities are too numerous and complex to give appropriate analysis to in any single article. However, two themes running through local government scholarship provide a

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foundation upon which to understand some of the problems and attempt to craft solutions to them: the marginalization of minorities in municipal decision-making and corruption in city government.

One answer to these problems may be a change in the structure of local governments. As I have explored elsewhere, neighborhood councils—new substructures of local government that aim to involve citizens in the decision- and policy-making processes—can improve civic engagement.¹ But can they provide more meaningful opportunities for minority groups to engage in municipal politics and to influence policy-making on the local level? Moreover, can these new entities help correct and prevent systemic problems of corruption in local government? This Essay will explore whether neighborhood councils can serve as one of many necessary solutions to these and other critical challenges plaguing many of America's cities. The focus of the Michigan Journal of Race & Law's 2010 symposium, the city of Detroit, also offers a compelling case study that illustrates the need for this type of creative solution.

Part I of this Essay will explore the problems of the marginalization of minorities in local government decision-making as well as corruption in municipal governance. Part II will discuss why local governments provide the best forum for increasing minority civic participation and addressing corruption within local government. Part III will detail the rise of neighborhood councils and their role in local governments. Part IV will explore some of the challenges facing this expansion of local governing coalitions. Finally, the Essay concludes by offering optimism and some suggestions for ensuring the possibility of neighborhood councils increasing minority voices and involvement in local decision-making, as well as reversing or preventing the incidence of corruption in local government.

I. MINORITY MARGINALIZATION AND CORRUPTION IN LOCAL GOVERNMENT

A. *Minority Marginalization*

It would be an understatement to say that all levels of government—federal, state, and local—have disenfranchised and marginalized minority populations.² Through legal and institutional mechanisms, our various levels of government have excluded minority groups from decision- and policy-making processes. This exclusion has certainly been true on the

1. Matthew J. Parlow, *Civic Republicanism, Public Choice Theory, and Neighborhood Councils: A New Model for Civic Engagement*, 79 U. COLO. L. REV. 137 (2008).

2. See, e.g., Sheryll D. Cashin, *Federalism, Welfare Reform, and the Minority Poor: Accounting for the Tyranny of State Majorities*, 99 COLUM. L. REV. 552 (1999) (detailing how majorities on the state level disenfranchise low-income welfare recipients).

local level.³ For instance, the typically smaller number of total members on local legislative bodies (that is, city councils) “makes more likely the formation of permanent and possibly corrupt majorities, effectively disenfranchising minorities.”⁴ In addition, in the current “winner-takes-all” approach to our voting system, even the well-intentioned creation of single-member districts that ensure the election of some minority representatives leads to these minority elected officials being ignored, overwhelmed, or outvoted by the White legislative majority.⁵ Moreover, despite significant civil rights reforms, many local government regulations and policies (in particular, those related to zoning and land use) exacerbate physical racial segregation that also disempowers minority communities.⁶ Minority marginalization also occurs in local educational settings. For example, in many school districts, White upper middle-class parents often wield a disproportionate amount of power and influence over local education policy, which hinders reform opportunities targeted at low-income minority students.⁷

To be sure, minorities have made advances in their representation and influence in local government, particularly in the last decade or so. For example, in the city of Los Angeles, minorities make up more than fifty percent of the City Council.⁸ Indeed, much social science literature suggests that minorities have made their most significant political strides in local government.⁹ There are many possible explanations for these

3. See Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985, 1998–2002 (2000) (noting how regional fragmentation of local governments has led to the disenfranchisement of poor and minority populations in many metropolitan areas).

4. Robert Eisig Bienstock, *Municipal Antitrust Liability: Beyond Immunity*, 73 CAL. L. REV. 1829, 1846–47 (1985).

5. See Reenah L. Kim, Note, *Legitimizing Community Consent to Local Policing: The Need for Democratically Negotiated Representation on Civilian Advisory Councils*, 36 HARV. C.R.-C.L. L. REV. 461, 516 (2001).

6. See Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841, 1860–64 (1994).

7. See KEVIN G. WELNER, *LEGAL RIGHTS, LOCAL WRONGS: WHEN COMMUNITY CONTROL COLLIDES WITH EDUCATIONAL EQUITY* 230–32 (2001).

8. See CITY COUNCIL: THE CITY OF LOS ANGELES, <http://lacity.org/YourGovernment/CityCouncil/index.htm> (last visited Sept. 21, 2010) (listing eight minority city councilmembers out of fifteen in the City Council directory: Councilmembers Ed Reyes (1st District), Tony Cardenas (6th District), Richard Alarcon (7th District), Bernard Parks (8th District), Jan Perry (9th District), Herb J. Wesson, Jr. (10th District), Eric Garcetti (13th District), and Jose Huizar (14th District)). Before the 2009 elections, two of Los Angeles’s citywide elected officials were Latino: Mayor Antonio Villaraigosa and City Attorney Rocky Delgadillo. See Henry Weinstein, *L.A.’s New Mayor*, L.A. TIMES, May 19, 2005, at A21.

9. See JEFFREY M. BERRY ET AL., *DEMOCRACY AT RISK: HOW POLITICAL CHOICES UNDERMINE CITIZEN PARTICIPATION* 85, n.99 (citing DAVID A. BOSITIS, *BLACK ELECTED OFFICIALS: A STATISTICAL SUMMARY 2001* (2003) (noting, among other relevant statistics,

successes: better community organizing,¹⁰ White flight to the suburbs,¹¹ and the like. Nevertheless, despite the increase in the number of minorities in politics, plenty of evidence indicates that minority groups continue to be excluded and marginalized in local governance. Simply put, the disenfranchisement of minority communities in local governance persists as a civil rights issue in need of legal reform—namely, innovative change in local government structuring.

Detroit provides a good context for an analysis of these issues. Throughout its history, but particularly during the 1950s and 1960s, Detroit, like most major American cities, was marked by racial tension and segregation.¹² Such circumstances came about due to a severe economic decline in Detroit's inner city and the pattern of residential housing discrimination that marked the post-World War II era in most major cities.¹³ In addition to the physical segregation in the city, the labor market also demonstrated distinct racial segregation: African Americans made up the majority of the workforce, while White workers filled the majority of management positions.¹⁴ Under this system, African Americans enjoyed little representation or influence in local politics and decision-making.¹⁵ The growing racial tensions culminated in the Detroit riots of 1967.¹⁶

that in 1990, 72.3% of African American elected office holders served on the local level)); DAVID A. BOSITIS, BLACK ELECTED OFFICIALS: A STATISTICAL SUMMARY 2001 (2003)(noting that since 1970, the number of Black mayors increased in cities with more than 50,000 residents where African Americans did not constitute a majority of the population); Nat'l Ass'n of Latino Elected Officials, *A Profile of Latino Elected Officials in the United States and Their Progress Since 1996*, available at <http://www.naleo.org/downloads/NALEOFactSheet07.pdf> (noting sixty-eight percent of the Latino elected officials in 2007 served in municipal governments or on school boards).

10. See, e.g., Carla Dorsey, Note, *It Takes a Village: Why Community Organizing is More Effective than Litigation Alone at Ending Discriminatory Housing Code Enforcement*, 12 GEO. J. ON POVERTY L. & POL'Y 437, 454–64 (2005) (detailing community organizing efforts to stop discriminatory housing code enforcement).

11. See, e.g., Jennifer C. Johnson, *Race-Based Housing Importunities: The Disparate Impact of Realistic Group Conflict*, 8 LOY. J. PUB. INT. L. 97, 120 n.137 (2007) (explaining that the result of White flight to the suburbs has been city populations with higher percentages of racial minorities); see also Michael A. Stegman, *National Urban Policy Revisited*, 71 N.C. L. REV. 1737, 1738 (1993) (noting that White flight to the suburbs, coupled with significant immigration, has resulted in racial minorities constituting demographic majorities in some of America's largest cities, including Detroit).

12. See Tom I. Romero, II, Kelo, *Parents and the Spatialization of Color (Blindness) in the Berman-Brown Metropolitan Heterotopia*, 2008 UTAH L. REV. 947, 979 n.165 (2008).

13. See generally THOMAS J. SUGRUE, *THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT* 3 (1996).

14. See *id.* at 104 and 169.

15. See Daniel Okrent, *Detroit: The Death—and Possible Life—of a Great City*, TIME, Sept. 24, 2009, available at <http://www.time.com/time/nation/article/0,8599,1925796,00.html>.

16. See Edward L. Glaeser & Andrei Shleifer, *The Curley Effect: The Economics of Shaping the Electorate*, 21 J.L. ECON. & ORG. 1, 12 (2005).

This civil unrest helped spur the outmigration of Whites to the suburbs.¹⁷ By the end of the 1960s, Detroit had become an African American majority city.¹⁸ From 1970 to 1990, the African American population as a percentage of Detroit's population grew from 43.7% to 75.7%.¹⁹ As one commentator remarked, "the racial demography that ensued is . . . a living relic of that chapter of Detroit's recent history."²⁰

In 1973, this change in Detroit's racial demographics helped lead to the election of the city's first African American mayor, Coleman Young.²¹ Many African Americans appreciated this breakthrough in elected representation, and hoped that Young's election would provide better opportunities for their involvement in the local decision-making process—one from which they had been alienated and excluded for so long. Unfortunately, the opposite occurred. Mayor Young's tenure was marked by a lack of accountability to many African American residents, who remained, in many respects, disconnected from local government.²² What could have been a shift toward ensuring that the voices of the African American community were heard more effectively in city government turned out to be an opportunity lost. In addition, the lack of community involvement was highlighted by a series of ensuing corruption scandals.²³

This lack of accountability and separation between community stakeholders and their city government transcended Mayor Young's twenty years in office and continued during subsequent mayoral administrations.²⁴ These frequent failures in accountability and communication inculcated apathy and a sense of alienation among all city residents (including the African American community), which led to their civic disengagement. Such problems were not and are not unique to Detroit. In

17. See Brian Gromley, *Appraising Detroit: A Follow-up to HUD's "Barriers to the Rehabilitation of Affordable Housing Study*, 12 J. AFFORDABLE HOUS. & CMTY. DEV. L. 314, 316 n.9 (2003).

18. See Okrent, *supra* note 15, at 3.

19. See Glaeser & Shleifer, *supra* note 16, at 12.

20. Khaled Ali Beydoun, *Without Color of Law: The Losing Race Against Colorblindness in Michigan*, 12 MICH. J. RACE & L. 465, 480 (2007).

21. See William A. Fischel, *The Political Economy of Public Use in Poletown: How Federal Grants Encourage Excessive Use of Eminent Domain*, 2004 MICH. ST. L. REV. 929, 940 (2004). The election was based almost strictly on racial lines: every White precinct voted for John Nichols, the White police commissioner, who garnered more than 90% of the White vote. See Glaeser & Shleifer, *supra* note 16, at 12. Young, on the other hand, garnered the support of every African American precinct and more than 90% of the African American voters. See *id.*

22. See TODD SHAW, *NOW IS THE TIME!: DETROIT BLACK POLITICS AND GRASS-ROOTS ACTIVISM* 73 (2009).

23. See, e.g., *Snarled in Corruption Traffic*, TIME, Feb. 21, 1982, at 1, available at <http://www.time.com/time/magazine/article/0,9171,925880,00.html>.

24. See Ken Fireman, *Political Heavyweights Slug It Out in Detroit*, NEWSDAY, July 27, 1989, at 4.

fact, the lack of opportunities for civic engagement is a problem that pervades many communities and one that residents across racial and socioeconomic lines lament.²⁵ In this regard, for Detroit and for other similarly situated cities, the legal inclusion of neighborhood councils into local government structures may provide a new opportunity for increased civic participation for minority groups—providing them with the ability to become more ensconced and influential in local government decision-making.

B. Corruption

Corruption is another problem that plagues many municipalities today, but this is not a new issue for cities, which have an infamous history with corruption. During the 19th century and into the beginning of the 20th century, city governments were run by corrupt boss-led political party machines.²⁶ These political machines used city governments to their advantage in large part by using political patronage to keep constituents, other elected officials, and even the judiciary within their control.²⁷ In response, in the early 20th century, the reforms of the Progressive Era (namely non-partisan local elections and the initiative and referenda processes), sought to extricate political machines and their attendant corruption from local governance.²⁸ At the time, this cleansing of local government succeeded for the most part.

However, corruption once again found its way into local governance and continues, in varying degrees, today. For example, traditional corruption crimes such as bribery and illegal gratuities persist.²⁹ In re-

25. Michele Frisby & Monica Bowman, *What We Have Here is a Failure to Communicate*, PUB. MGMT. A-1 (Feb. 1996).

26. See David J. Barron, *Reclaiming Home Rule*, 116 HARV. L. REV. 2255, 2289–2307 (2003).

27. See Herbert M. Kritzer, *Law is the Mere Continuation of Politics By Different Means: American Judicial Selection in the Twenty-First Century*, 56 DEPAUL L. REV. 423, 429 (2007) (noting that local political machines controlled members of the judiciary through patronage); Richard L. Hasen, *Entrenching the Duopoly: Why the Supreme Court Should Not Allow the States to Protect the Democrats and Republicans From Political Competition*, 1997 SUP. CT. REV. 331, 358 (finding that political machines used jobs and government benefits to maintain voter support).

28. See David Schleicher, *Why Is There No Competition in City Council Elections?: The Role of Election Law*, 23 J.L. & POL. 419, 421 (2007) (explaining the rise of local non-partisan elections); Nicholas M. Kublicki, *Land Use By, For, and Of the People: Problems With the Application of Initiatives and Referenda to the Zoning Process*, 19 PEPP. L. REV. 99, 114 n.122 (1991) (discussing the initiative and referenda processes as a key component of the Progressive Era reforms to political machine corruption).

29. See Colleen B. Dixon et al., *Public Corruption*, 46 AM. CRIM. L. REV. 927, 929–49 (2009).

sponse, federal, state, and local governments have passed stricter laws prohibiting such behavior.³⁰ However, enforcing such laws has proven more difficult than the public might like.³¹ Corruption in the awarding of city government contracts also continues to plague many municipalities. Scandals involving government contracts have led many cities to reform their government contracting procedures to avoid corruption or even the appearance of impropriety.³²

One of the well-known problems in local government is police corruption. As one scholar notes, there has been a long and unflattering history of police corruption and of local elected officials (at worst) supporting or (at best) acquiescing to such corruption.³³ Finally, other scholars have lamented the seemingly entrenched corruption in the area of local governments' greatest power and authority: land use.³⁴ Local elected officials are able to perpetrate such corruption with impunity because of their control over the cumbersome, fragmented, and onerous land-use approval process.³⁵ The lack of civic engagement, as detailed above, further frustrates the public's ability to hold elected officials accountable in the land use context.

Detroit provides an interesting example of how corruption plagued, and continues to plague, city government, as illustrated by one high profile scandal that occurred during Mayor Young's tenure. During the 1980s, there was a federal investigation into alleged bribery involving Vista Disposal, Inc.'s attempt to secure a \$5.6 million sludge-hauling contract from the city of Detroit.³⁶ A federal grand jury indicted businesswoman Daralyn Bowers and her business partners at Vista Disposal on charges of

30. See *id.*

31. See WILLIAM N. ESKRIDGE, JR., ET AL., CASES AND MATERIALS ON LEGISLATION: STATUTES AND THE CREATION OF PUBLIC POLICY 299–310 (Am. Casebook Series ed., 4th ed. 2007).

32. See, e.g., Janna J. Hansen, Note, *Limits of Competition: Accountability in Government Contracting*, 112 YALE L.J. 2465, 2482–83 (2003) (detailing the City of New York's government contracting procedure reform).

33. See Carol S. Steiker, *Second Thoughts About First Principles*, 107 HARV. L. REV. 820, 834–35 (1994).

34. See Alejandro E. Camacho, *Mustering the Missing Voices: A Collaborative Model for Fostering Equality, Community Involvement and Adaptive Planning in Land Use Decisions*, 24 STAN. ENVTL. L.J. 3, 42–43 (2005) (noting that “it is not uncommon for developers to pay off elected officials in exchange for favorable decisions”). See also Denis Binder, *The Potential Application of RICO in the Natural Resources/Environmental Law Context*, 63 DENV. U. L. REV. 535, 560 (1986) (explaining that “fraud, kickbacks, and corruption are very common in land development”); David A. Dana, *Land Use Regulation in an Age of Heightened Scrutiny*, 75 N.C. L. REV. 1243, 1272–74 (1997) (providing examples of developers' unseen influence over land use decisions, including through bribery).

35. See SUSAN ROSE-ACKERMAN, CORRUPTION: A STUDY IN POLITICAL ECONOMY 170 (1978).

36. *Snarled in Corruption Traffic*, *supra* note 23.

conspiracy and violating both the Hobbs Act and the Racketeer Influenced and Corrupt Organizations Act.³⁷ Bowers was an unofficial advisor to Mayor Young.³⁸ The indicted defendants allegedly bribed the city's Director of Water and Sewerage, Charles Beckham, with \$2,000 a month to secure the sludge-hauling contract.³⁹ Although the Federal Bureau of Investigation (FBI) never obtained enough evidence to accuse Mayor Young of "anything more than being an unindicted co-conspirator",⁴⁰ the corruption scandal tainted how citizens viewed his administration, even leading to a recall campaign against him.

Many recent corruption scandals have plagued Detroit during one of the most difficult economic times it has ever faced. For example, in 2003, Karl Kado, a government contractor, was accused of paying kick-backs to former Cobo Center board members to secure or maintain food, electrical, and janitorial service contracts for the facility.⁴¹ Kado pleaded guilty to filing false tax returns, and his plea agreement suggests that not only did Kado offer the bribes, but that city officials requested other payments as well.⁴² The scandal eventually concluded when two board members pled guilty to felonies for bribery.⁴³

Another sludge-hauling contract scandal erupted about four years after the Cobo Center debacle. At stake was a \$1.2 billion sludge-hauling contract,⁴⁴ which the city of Detroit awarded to Synagro Technologies, Inc., on a narrow five to four vote.⁴⁵ Almost immediately allegations of bribery surfaced because City Councilmember Monica Conyers had changed her position from opposing to supporting Synagro's contract bid just before the vote on the contract, thus casting the deciding vote in

37. See *Cnty. of Oakland v. Vista Disposal, Inc.*, 826 F. Supp. 218, 221 (E.D. Mich. 1993).

38. *Snarled in Corruption Traffic*, *supra* note 23.

39. *Id.*

40. David Ashenfelter et al., *Kilpatrick's Father is Target of FBI Probe*, DETROIT FREE PRESS, Aug. 16, 2008, <http://www.freep.com/article/20080816/NEWS01/808160374/Kilpatrick%5C-s-father-is-target-of-FBI-probe> (last visited Nov. 13, 2010).

41. Mary Kramer, *The Mayor Isn't Our Only Problem*, CRAIN'S DETROIT BUSINESS, Aug. 11, 2008, <http://www.crainsdetroit.com/article/20080811/SUB/817161995/1056> (last visited Oct. 28, 2010).

42. Paul Egan, *Scandal at Cobo Deepens*, THE DETROIT NEWS, June 9, 2009, at A3, available at <http://detnews.com/article/20090609/METRO/906090347/Scandal-at-Cobo-deepens>.

43. See Darren A. Nichols, *Council Weighs Ban on 'Pay to Play'*, THE DETROIT NEWS, June 23, 2009, at A1.

44. Doug Guthrie, *'Not the End' of City Hall Corruption Investigation*, THE DETROIT NEWS, June 27, 2009, at A8.

45. See David Ashenfelter et al., *Synagro Exec's Vehicle Wired: Alleged Bribes Cut, Payoffs Recounted as Camera Filmed High Quality Images*, DETROIT FREE PRESS, Jan. 25, 2009, at A1.

Synagro's favor.⁴⁶ Once investigators started looking into allegations that Conyers took a bribe in exchange for her vote, other improprieties surfaced. Conyers and her longtime consultant and chief of staff, Sam Riddle, allegedly took bribes and extorted money from business owners in Detroit for a variety of political favors.⁴⁷ In fact, during the investigation, an FBI informant was paid \$10,000 to arrange bribes for Conyers and Riddle for favorable action on a real estate project.⁴⁸ The informant paid the money to businessman Rayford Jackson, who commented that such payments were "a regular part of his business" and that "[Conyers] sends [Riddle] out there to shake me, this happens all the time."⁴⁹ Consequently, Riddle was indicted for extortion and bribery, while Conyers waived indictment and opted to plead guilty.⁵⁰ She pled guilty to the bribery charges, including accepting \$6,000 to change her vote on the Synagro contract.⁵¹ In her plea agreement, Conyers also acknowledged committing other illegal conduct, such as accepting money for her favorable action as a councilmember.⁵² This deep-rooted, pay-to-play, illegal behavior further sullied the city government's reputation.

Detroit endured many other scandals, including ones related to elected city officials illegally misusing city funds,⁵³ police corruption,⁵⁴ and

46. See Paul Egan, *Conyers Worries About FBI Investigation*, THE DETROIT NEWS, June 20, 2009, at A1.

47. See Nolan Finley, *How Detroit's Corruption Works*, THE DETROIT NEWS, June 28, 2009, at A29. Conyers was accused, among other things, of taking \$40,000 worth of jewelry from a storeowner seeking to have restrictions eased on his business. See *Conyers Recorded Praising Shop Owner*, THE DETROIT NEWS, June 24, 2009, at A3. Riddle was also accused of demanding \$25,000 from a business owner seeking to open a strip club. See Paul Egan and Leonard N. Fleming, *Riddle May Face Extortion Charges*, THE DETROIT NEWS, July 15, 2009 at A1.

48. See David Ashenfelter et al., *Informant Paid to Set Up Bribes, Prosecutors Say*, DETROIT FREE PRESS, Jan. 29, 2010, at A5.

49. Ben Schmitt et al., *Prosecutors' Memo: FBI Gave Money to Set Up Riddle Bribe: Recordings Revealed in Trial Filing*, DETROIT FREE PRESS, Jan. 29, 2010.

50. See Waiver of Indictment, *United States v. Conyers*, Crim. No. 09-20025 (E.D. Mich. filed June 26, 2009); David Ashenfelter et al., *Feds: Conyers, Riddle Teamed Up to Extort at Least \$65,000: Ex-State Legislator Mary Walters Also Indicted*, DETROIT FREE PRESS, July 15, 2009.

51. See Paul Egan, *Conyers Admits Trading Synagro Vote for Cash*, THE DETROIT NEWS, June 27, 2009, at A1.

52. See *id.* See also *The Case for Conspiracy*, DETROIT FREE PRESS, Feb. 21, 2010, at A6 (noting that Conyers pled guilty to taking \$6,000 in exchange for her vote in favor of a certain city contract).

53. See *United States v. Bates*, No. 05-81027, 2009 WL 3270190 (E.D. Mich. Oct. 9, 2009) (involving former Detroit City Councilman Alonzo Bates using his yearly office budget to pay family members who did not actually work for him).

54. See Roger Roots, *Are Cops Constitutional?*, 11 SETON HALL CONST. L.J. 685, 719 (2001) (noting that many Detroit Police Department officers have been involved in such crimes as drug trafficking, hiring hit men, and looting informant funds).

other embarrassing government actions. This culture of corruption has a corrosive effect on local government and civic engagement in Detroit and in other cities suffering from similar maladies. Such a culture excludes residents and enables those who perpetrate such illegalities. It also alienates community stakeholders who understandably feel disconnected and disheartened by the actions of their city government. There are multiple approaches, collective and individual, that could reduce or eliminate the negative effect that corruption has on local government.⁵⁵ Indeed, as discussed further below, better civic engagement and community stakeholder oversight can help address the problem of corruption in municipal government, as well as the lack of minority involvement in local decision-making.

II. LOCAL GOVERNMENTS: THE OPTIMAL FORUM FOR INCREASING MINORITY PARTICIPATION

Local governments, as opposed to state or federal governments, hold the greatest potential for increasing civic participation for minority groups and the community at large. Local governments are much smaller in size and thus afford the opportunity for community stakeholders to interface with decision-makers.⁵⁶ State and federal governments are simply too large and inaccessible for meaningful public participation.⁵⁷ Costs of participation are lower on the local level, making it easier for community members to get involved in local governance.⁵⁸ Moreover, much critical regulation and a vast array of goods and services that affect our day-to-day lives are handled on the local level.⁵⁹ Finally, local government is the level at which minority groups, particularly African Americans and Latinos, have had the most political and electoral success.⁶⁰ Therefore, to correct a

55. See Debra S. Weisberg, Note, *Eliminating Corruption in Local Government: The Local Government Ethics Law*, 17 SETON HALL LEGIS. J. 303, 309 (1993) (describing how New Jersey's Local Government Ethics Law seeks to root out corruption and conflicts of interest in municipal governance).

56. See Richard Briffault, "What About the 'Ism'?" Normative and Formal Concerns in Contemporary Federalism, 47 VAND. L. REV. 1303, 1315 (1994).

57. Parlow, *supra* note 1, at 144.

58. See Richard Briffault, *Home Rule for the Twenty-first Century*, 36 URB. LAW. 253, 258 (2004).

59. ROBERT L. LINEBERRY, EQUALITY AND URBAN POLICY: THE DISTRIBUTION OF MUNICIPAL PUBLIC SERVICES 10 (1977) ("The services performed by municipalities are those most vital to the preservation of life (police, fire, sanitation, public health), liberty (police, courts, prosecutors), property (zoning, planning, taxing), and public enlightenment (schools, libraries).").

60. See generally Bositis, *supra* note 9; Nat'l Ass'n of Latino Elected Officials, *supra* note 9. See also, David A. Bositis, *Black Political Power in the New Century*, in THE BLACK METROPOLIS IN THE TWENTY-FIRST CENTURY: RACE, POWER, AND POLITICS OF PLACE

persisting civil rights injustice—the continued disenfranchisement and marginalization of minority communities in government decision-making—local governments and the ability to alter their structure provide the most fruitful forum for crafting a legal solution to this problem.

Yet many view local governments as having been captured by special interest groups to advance those groups' private interests, with willing elected officials seeking their support to advance the officials' political careers.⁶¹ The corruption scandals detailed above support this notion. Unsurprisingly, citizens of the locality, including minority groups, are alienated by this problem. In addition, they find the barriers to entry into local politics too high for collective action and participation.⁶² This is due, in part, to the way in which local governments are structured. Most cities have a very centralized governmental and decision-making structure that leaves little room for civic engagement and diverse voices.⁶³ It is this type of environment that allows corruption to proliferate: when community stakeholders are not engaged in the functioning of their government, it is more difficult for them to hold their elected officials accountable.

Many have argued that because of such structuring, local governments are conduits for the rich, powerful, and politically connected to achieve their economic, social, and political goals.⁶⁴ This result, of course, is at the expense of others and to the exclusion of many. However, the legal restructuring of local governments to engage residents, including the traditionally disenfranchised minority communities, can help reverse disturbing patterns of racial exclusion and address the problem of corruption in city government.

221–42 (Robert D. Bullard ed., 2007); David A. Bositis, *The Future of Majority-Minority Districts and Black and Hispanic Legislative Representation*, in REDISTRICTING AND MINORITY REPRESENTATION: LEARNING FROM THE PAST, PREPARING FOR THE FUTURE 9–42 (David A. Bositis ed., 1998).

61. See MYRON ORFIELD, *METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY* 5–6 (1997) (describing how the “favored quarter” manipulates local government processes to reap the greatest benefits at the expense of the majority of the population in the locality); Robert C. Ellickson, *New Institutions for Old Neighborhoods*, 48 DUKE L.J. 75, 89 (1998) (explaining how local governments are captured by special interest groups).

62. See MATTHEW A. CRENSON & BENJAMIN GINSBERG, *DOWNSIZING DEMOCRACY: HOW AMERICA SIDELINED ITS CITIZENS AND PRIVATIZED ITS PUBLIC* 1, 14 (2002).

63. See William H. Hansell, Jr., *A Common Vision for the Future: The Role of Local Government and Citizens in the Democratic Process*, 85 NAT'L CIVIC REV. no. 3, Fall 1996 at 9 (describing the “vending machine” model, where local governments view citizens as passive consumers, acquiescing to pay their share of taxes and fees for various services instead of being actively involved in the decision-making process).

64. See ORFIELD, *supra* note 61, at 5–6; Cashin, *supra* note 3, at 1987.

III. NEIGHBORHOOD COUNCILS AND THEIR ROLE IN LOCAL GOVERNMENT

Neighborhood councils⁶⁵ may be able to alter this perverse legal structure and provide more opportunities for civic participation, particularly for traditionally marginalized groups. Cities have created neighborhood councils through two legal mechanisms: by incorporating new provisions in their city charters or by passing new statutes. Voters generally adopt city charter amendments or new city charters through ballot initiatives.⁶⁶ For example, the city of Los Angeles created neighborhood councils when it adopted a new city charter in 1999 through a city-wide vote.⁶⁷ The city's legislative body, usually a city council, traditionally adopts city statutes. The City Council of the city of Tacoma, Washington, for instance, adopted neighborhood councils in 1992 by statute.⁶⁸

Neighborhood councils aim to bring together a broad cross-section of the community to deliberate over various laws, decisions, and policies.⁶⁹ The goal of this dialogic process is to bring community members to a consensus as to what decisions further the common good.⁷⁰ The community then informs its local decision-makers as to its preferences and needs, thereby influencing the local government's policy outputs.⁷¹ However, how cities structure and support neighborhood councils will determine how successful the councils will be, both generally and with regard to including those marginalized in society and preventing corruption in local governance. This structure and support will be central in order for

65. While the official names for these types of local government substructures may vary a bit, I use the term "neighborhood council" to describe them.

66. See Erwin Chemerinsky, *Challenging Direct Democracy*, 2007 MICH. ST. L. REV. 293, 306 (2007) (describing the flood of ballot initiatives presented to California voters in every election, including one in 1999 to amend the Los Angeles City Charter). See also Lynn A. Baker & Daniel B. Rodriguez, *Constitutional Home Rule and Judicial Scrutiny*, 86 DENV. U. L. REV. 1337, 1374–1424 (2009) (providing an appendix detailing the home rule provisions in the states in 2009).

67. See Matthew J. Parlow & James T. Keane, *Richard Riordan and Los Angeles Charter Reform*, CENTER FOR THE STUDY OF LOS ANGELES WHITE PAPER SERIES, 48–67 (2002), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=942448.

68. *What Are Neighborhood Councils?*, CENTRAL TACOMA NEIGHBORHOOD COUNCIL, <http://www.cnc-tacoma.com/neighborhoodcouncils.html> (last visited Aug. 1, 2010).

69. Parlow, *supra* note 1, at 167.

70. See Peter W. Salsich, Jr., *Grassroots Consensus Building and Collaborative Planning*, 3 WASH. U. J.L. & POL'Y 709, 714, 717, 722 (2000) (defining consensus-building in this context, and describing neighborhood councils in Atlanta and Washington D.C.). See generally Frank Benest, *Serving Customers or Engaging Citizens: What is the Future of Local Government?*, 78 PUB. MGMT. A6, A7 (1996) (explaining the purpose of the Brea, California neighborhood councils).

71. See Parlow, *supra* note 1, at 181–82.

cities to avoid repeating the mistakes of past attempts at civic engagement that had limited success in engaging the disenfranchised.

For example, cities often allow community stakeholders to define the boundaries of their neighborhood councils to reflect natural neighborhoods and communities.⁷² This approach allows the creation of neighborhood councils to be more organic and stem from community initiatives. Once communities have drawn their boundaries, they can apply for certification from the city to be a recognized neighborhood council.⁷³ Neighborhood council areas range in size from covering a few thousand people to more than 125,000 people.⁷⁴ Ideally, the smaller the neighborhood council, the more likely that meaningful “face-to-face” interaction will occur; the larger the geographic area and population, the less effective the neighborhood council is likely to be.⁷⁵

Another related question is, who should participate in neighborhood councils? Traditional participatory theory views individuals as being part of only one community: the one in which they live.⁷⁶ However, more contemporary definitions of community transcend this strict boundary. In response, many cities have crafted more inclusive definitions of eligible community stakeholders to include residents, business owners, property owners, educators, church-goers, members of community organizations, and the like.⁷⁷ For their long-term success and viability, neighborhood councils must be open to and include a diverse cross-section of the local community. Community stakeholders must be able to confront one another with their different experiences and cultural backgrounds to search

72. See, e.g., Frederick A. O. Schwartz, Jr., & Eric Lane, *The Policy and Politics of Charter Making: The Story of New York City's 1989 Charter*, 42 N.Y.L. SCH. L. REV. 723, 822–23 (1998) (detailing the criteria used by New York City to set up its neighborhood councils) and JULIE A. MUSSO ET AL., UNIV. OF S. CAL. URBAN INITIATIVE, NEIGHBORHOOD COUNCILS IN LOS ANGELES: A MIDTERM STATUS REPORT 4 (2004), available at http://www.usc.edu/schools/sppd/research/npp/FINAL_Midterm_Report.pdf (noting that the City of Los Angeles's approach to neighborhood councils permits self-selection).

73. See, e.g., MUSSO ET AL., *supra* note 72, at 14.

74. E.g., Richard Briffault, *The New York City Charter and the Question of Scale*, 42 N.Y.L. SCH. L. REV. 1059, 1064 (1998) (noting that New York City's fifty-nine neighborhood councils represent an average of 125,000 residents) and MUSSO ET AL., *supra* note 72, at 20 (noting that on average, the City of Los Angeles's neighborhood councils represent some 38,000 residents).

75. JEFFREY M. BERRY ET AL., *THE REBIRTH OF URBAN DEMOCRACY* 49 (1993) (finding that successful neighborhood councils encompassed smaller geographic regions, with representative populations between 2,000 and 16,000 people).

76. See Richard Briffault, *Who Rules at Home?: One Person/One Vote and Local Governments*, 60 U. CHI. L. REV. 339, 413–14 (1993).

77. See Salsich, *supra* note 70, at 717 (listing those who are eligible for voting membership in the City of Atlanta's neighborhood councils); MUSSO ET AL., *supra* note 72, at 26–27 (detailing the diverse definitions for community stakeholders among the City of Los Angeles's neighborhood councils).

for commonly held values.⁷⁸ Otherwise, the dialogic process among the homogenous or singularly focused will not lead to a sense of the true needs of the collective whole. In fact, the success of past attempts of civic engagement has been limited because many of the models, like Business Improvement Districts, have restricted membership and thus have had a more limited scope of public participation.⁷⁹

Another issue that arises with regard to neighborhood councils is whether they should be advisory or have decision-making authority. Most neighborhood councils are advisory, lacking decision-making authority⁸⁰—largely due to the Voting Rights Act and legal liability concerns.⁸¹ But if neighborhood councils do not have any formal decision-making authority, will people even bother to get involved, or will they see the councils' efforts as futile? One response is that neighborhood councils may not need *de jure* decision-making power in order to be effective. As long as they have *de facto* political power to affect local government decision-making, neighborhood councils will draw community stakeholders who will see that their efforts can inform and influence the decision-making process. Indeed, lobbyists and interest groups have no formal authority, but their influence on government decisions is well-documented.⁸² Advisory neighborhood councils can have this type of influence, too. In fact, in some cities, local decision-makers have followed the recommendations of neighborhood councils up to eighty percent of the time.⁸³

Some neighborhood councils have been able to be this effective because their cities made them a formal part of the local decision-making process.⁸⁴ For example, in Los Angeles, the city charter and attendant enabling statutes provide neighborhood councils with the ability to hold public hearings before the City Council makes a decision on a matter, to monitor and give input on City service delivery, and to provide input on

78. See Parlow, *supra* note 1, at 169–70.

79. See Parlow, *supra* note 1, at 157–66 (detailing the failures of some past attempts at citizen participation and the limited successes of others, due to more narrow structures and memberships).

80. *Id.* at 173–75.

81. See generally Briffault, *supra* note 74, at 400–01 & n.240.

82. See MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* 141–48 (1965) and Gary S. Becker, *A Theory of Competition Among Pressure Groups for Political Influence*, 98 Q.J. ECON. 371, 371–72 (1983).

83. Patrick McGreevy, *Appointed Charter Panel Weighs Reforms*, L.A. DAILY NEWS, Feb. 12, 1998, at N6 (noting neighborhood council successes in New York City).

84. See, e.g., Benest, *supra* note 70 at A7–A9 (noting the City of Brea, California's incorporation of neighborhood councils into the decision-making process); Briffault, *supra* note 74, at 1063 (noting that New York City has also incorporated neighborhood councils into its decision-making process).

the City budget each year.⁸⁵ In this regard, these neighborhood councils consider proposed developments, government contracts, and other such decisions made by their respective local governments. This institutional legitimacy is critical; informal neighborhood groups in the past have had only limited success.⁸⁶

Overall, neighborhood councils can provide significant benefits to local politics and decision-making. They provide a forum for community stakeholders to come together and engage in a dialogic process where they can discern the public good. Neighborhood councils can take the results of that process and inform local decision-makers of community preferences and needs. This allows every community in a city, including those that are currently shut out of the local decision-making process, to influence local policy. This dialogic process, in theory, should lead to superior local government policies, laws, and decisions or, at the very least, those that are more representative than the captured local governments that many see today.

Moreover, neighborhood councils can help minimize corruption in local government. By involving neighborhood councils in such matters as government contracting, budgeting, and land use decisions, cities ensure that the electorate keeps an informed eye on their elected officials and others serving in local government. Knowledge is power in these circumstances: Community stakeholders will know the issues involved in these matters and can blow the whistle if they perceive illegal actions taking place. Moreover, an engaged citizenry can also hold its elected officials accountable by voting them out of office when they engage in questionable behavior, as seen in the scandals in Detroit. While the increase in civic engagement may not eradicate corruption in local politics, such community involvement should create more transparency and accountability in local government, which may lessen the incidence of corruption in cities.

IV. CHALLENGES FOR INCREASING MINORITY INVOLVEMENT

There are no guarantees that neighborhood councils will be successful in increasing minority involvement in local governance. For example, this model presumes that community stakeholders in minority communities will have the time and interest to engage in neighborhood councils. People are increasingly busy, and life is increasingly complex. Can people

85. See CHARTER OF THE CITY OF LOS ANGELES vol I, art. IX, §§ 904, 907–10 (2000).

86. Parlow, *supra* note 1, at 160–62. For an exciting example of a non-profit, community-based organization that inculcates many of the values of neighborhood councils discussed in this Essay, see THE CENTER FOR COLLABORATIVE CHANGE, <http://newarkchange.org> (last visited Oct. 26, 2010).

really find time for neighborhood councils if, for example, they are poor and work two jobs?

Perhaps not, but community stakeholders may feel that finding the time is worth it if they see the benefits of their work, especially if their participation helps lead to more representative laws and policies. Indeed, some social scientists have noted that minorities participate in neighborhood groups more often than they participate in other types of political organizations.⁸⁷ Moreover, communities do not need one hundred percent community participation; that is not even practical. It is enough that the dialogic process is open to all and brings some members from across the community together to engage with one another.

To accomplish this goal, however, cities will need to conduct significant outreach efforts to establish and build neighborhood councils and to convince people that such involvement is worth their time. This is particularly so in minority communities, where there is distrust and skepticism of the willingness of local governments to include them.⁸⁸ However, there have been instances of cities effectively reaching out to minority communities to incorporate them better into the local decision-making process.⁸⁹ For example, the city of Seattle, Washington, developed an outreach plan for minority communities to involve them in salvaging and improving the important (and redrafted) comprehensive plan for Seattle in 1994.⁹⁰ The City planning office developed outreach toolkits that included ideas and resources to enable those working on the comprehensive plan to connect with stakeholders in minority communities who might not otherwise participate.⁹¹ Such efforts included translating materials into foreign languages for different communities.⁹² These focused efforts to broaden the local political coalition related to the comprehensive plan paid off: "Those interviewed indicated many episodes where previously marginalized groups, such as renters and racial minorities, were included relatively effectively in the deliberative process and had a clear impact on the outcome of plans within their neighborhoods."⁹³

87. See Kent E. Portney & Jeffrey M. Berry, *Neighborhoods and Social Capital* 24, available at <http://ase.tufts.edu/polsci/faculty/portney/socialcap.pdf>.

88. See David T. McTaggart, *Reciprocity on the Streets: Reflections on the Fourth Amendment and the Duty to Cooperate with the Police*, 76 N.Y.U. L. REV. 1233, 1234–35 (2001).

89. See, e.g., ARCHON FUNG, *EMPOWERED PARTICIPATION: REINVENTING URBAN DEMOCRACY* 173–97 (2004) (detailing Chicago's training programs to involve a broader cross-section of the community in community policing and neighborhood beat meetings).

90. See Carmen Sirianni, *Neighborhood Planning as Collaborative Democratic Design: The Case of Seattle*, 73 J. AM. PLAN. ASS'N 373 (2007).

91. *Id.* at 376.

92. *Id.*

93. *Id.* at 385.

In addition, neighborhood council success will depend on the willingness of those with political power to share that power with minority communities. Elected officials, interest groups, and government administrators may resist sharing such power, but the inclusiveness and broadening of local political coalitions will be essential to the long-term success of these latest attempts at civic engagement. The expansion of political coalitions will be important in a city like Detroit, which has suffered from a culture of corruption perpetuated by a city government that largely excludes community stakeholders. Moreover, cities must be careful as to how they structure neighborhood councils and seek to engage minorities in them. Studies have shown that small decision-making bodies tend to ignore or marginalize minority views unless there are procedural mechanisms to ensure minority support.⁹⁴ Finally, neighborhood councils must also be properly funded. The Federal War on Poverty initiatives in the 1960s, which sought to include minority communities in the decision-making process, failed in part because of the lack of funding.⁹⁵

CONCLUSION

There are many question marks for neighborhood councils, but they offer a potential solution (or at least a partial solution) to corruption in local politics by allowing citizens to keep their municipal governments transparent and accountable. Neighborhood councils also provide the potential to improve civic engagement and empower the traditionally marginalized on the local level. Indeed, in cities where minority groups have made significant political gains, it has been the presence of accessible political institutions that allowed these disenfranchised groups to become part of the governing coalition.⁹⁶ Neighborhood councils can provide that type of accessibility. They can also prove to be significant training grounds for minority leaders, who may then seek elected office at the local and higher levels of government.

So far, the results are mixed on neighborhood councils' success in expanding the participation base in local governance. One study in Los Angeles found that most neighborhood councils are still dominated by older, White, and more affluent residents and business owners.⁹⁷ However, the study also notes that in traditionally disenfranchised sections of Los

94. See Kim, *supra* note 5, at 516–17.

95. See Salsich, *supra* note 70, at 713.

96. See, e.g., William Nelson, *Black Mayoral Leadership*, 2 NAT'L POL. SCI. REV. 188, 192 (1990).

97. See, e.g., Juliet Musso et al., *Representing Diversity in Community Governance: Neighborhood Councils in Los Angeles*, URBAN INITIATIVE POL'Y BRIEF (Univ. S. Cal. Urban Initiative), June 2004, at 3, available at http://www.usc.edu/schools/sppd/research/npp/nc_diversity.pdf.

Angeles (South Los Angeles and East Los Angeles), African Americans and Latinos, respectively, were represented in neighborhood councils at or above the proportion of their share of the regional population.⁹⁸ Los Angeles's neighborhood councils have also had successes in opposing the approval of liquor stores and other undesirable development projects; advocating for increased or targeted city services; and promoting youth-related activities.⁹⁹ These types of successes had traditionally eluded these disenfranchised communities before the advent of neighborhood councils.

Neighborhood councils have had some success, but cities that create them must work, as described above, to ensure their continued success. Neighborhood councils can provide a potential avenue for local empowerment for poor and racial minority communities in a growing number of American cities, and they may also provide an institutional check against corruption in local government. This type of governmental reform may be one way to help fix America's broken cities.

98. See, e.g., Musso et al., *supra* note 97, at 3.

99. See, e.g., MUSSO ET AL., *supra* note 72, at 51.